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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/574,381

07/17/2006

Claus Aufmuth

3926.236

9724

30448

7590

04/02/2008

AKERMAN SENTERFITT

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EXAMINER

PUNNOOSE, ROY M

ART UNIT

PAPER NUMBER

2886

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DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/574,381	<b>Applicant(s)</b> AUFMUTH ET AL.	
	<b>Examiner</b> Roy M. Punnoose	<b>Art Unit</b> 2886	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 03 April 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 14-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>09/26/2006; 07/28/2006</u> .                                  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Objections*

1. Claims 25 and 26 are objected to because claims 25 and 26 are essentially identical to claim 14 except for the preamble. In claims 25 and 26, the recitation “planetary” and “inspection of surfaces of industrially manufactured components” respectively, have not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

### *Claim Rejections - 35 USC § 112*

**2. The following is a quotation of the first paragraph of 35 U.S.C. 112:**

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 14, 25 and 26 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. “Preparing images” as claimed in claims 14, 25 and 26 are not described in the specification. In view of the lack of description or definition of “preparing images,” a most general or commonly known meaning of

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"preparing images," for example image processing as in the case of digital image processing, has been used in the examination of the claims.

**4. The following is a quotation of the second paragraph of 35 U.S.C. 112:**

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 14, 25 and 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 14, 25 and 26, from the recitation "preparing images ... from a camera position" it is not clear what the intended process step is. Further, it is not clear how or where the images were obtained. It is not entirely clear if images provided by a camera or some other source(s) such as a database which has been created previously. This has made the claims vague and indefinite.

6. Claim 18 recites the limitation "the binary-connected-component" in line 2. There is insufficient antecedent basis for this limitation in the claim. There is no prior reference of a "binary-connected-component" in the claim or in any of the parent claim(s).

7. Claim 21 recites the limitation "the shape-from-shading method" in line 2. There is insufficient antecedent basis for this limitation in the claim. There is no prior reference of a "shape-from-shading method" in the claim or in any of the parent claim(s).

8. Claim 22 recites the limitation "the above explained shadow analysis" in line 8. There is insufficient antecedent basis for this limitation in the claim. There is no prior reference of a "shadow analysis" in the claim or in any of the parent claim(s).

9. Claim 23 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as

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the invention. From the recitation “this is improved” (on line 2), it is not what “this” refers to.

This has made the claims vague and indefinite.

10. Claim 24 recites the limitation “the result” in line 2. There is insufficient antecedent basis for this limitation in the claim. There is no prior reference of a “result” in the claim or in any of the parent claim(s).

11. Claims 15-17 and 19-20 are rejected because they are dependent on a rejected base claim and they have all the deficiencies of the respective parent claim inherent in them.

#### *Allowable Subject Matter*

12. Determining surface profile from a plurality of images of a surface illuminated from different directions with a shallow angle of incidence, in combination with the rest of the limitations of the respective claim(s), is allowable subject matter because none of the prior art documents have such a teaching.

13. Claims 14-26 would be allowable if the objections and rejections of the claims detailed above can be overcome.

#### *Contact/Status Information*

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Roy M. Punnoose** whose telephone number is **571-272-2427**.

The examiner can normally be reached on 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, **Tarifur Chowdhury** can be reached on **571-272-2287**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**/Roy M. Punnoose/**  
Primary Patent Examiner  
Art Unit 2886